

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,
Debtors.¹

PROMESA
Title III

No. 17 BK 3283-LTS
(Jointly Administered)

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO,

Plaintiff,

v.

AMBAC ASSURANCE CORPORATION, *et al.*,

Defendants.

Adv. Proc. No. 20-00003-
LTS

¹ The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority ("PBA") (Bankruptcy Case No. 19-BK-5523-LTS) (Last Four Digits of Federal Tax ID: 3801).

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO,

Plaintiff,

v.

AMBAC ASSURANCE CORPORATION, *et al.*,

Defendants.

Adv. Proc. No. 20-00004-
LTS

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO,

Plaintiff,

v.

AMBAC ASSURANCE CORPORATION, *et al.*,

Defendants.

Adv. Proc. No. 20-00005-
LTS

**JOINT STATUS REPORT REGARDING DISCOVERY
IN THE REVENUE BOND ADVERSARY PROCEEDINGS**

To the Honorable United States Magistrate Judge Judith Gail Dein:

Ambac Assurance Corporation (“Ambac”), Financial Guaranty Insurance Company (“FGIC”), The Bank of New York Mellon (“BNYM”), U.S. Bank Trust National Association (“U.S. Bank”, and collectively with Ambac, FGIC, and BNYM, the “Defendants”), and the Financial Oversight and Management Board for Puerto Rico (the “Board”), as Title III representative of the Commonwealth of Puerto Rico (the “Commonwealth”) pursuant to section 315(b) of the Puerto Rico Oversight, Management, and Economic Stability Act (“PROMESA”), and the Government Entities² (together, with Plaintiff, the “Government Parties”), respectfully submit this Joint Status Report in response to the Court’s Order dated February 5, 2021, concerning discovery in the adversary proceedings (the “Adversary Proceedings”) regarding bonds issued by the Puerto Rico Infrastructure Finance Authority (“PRIFA”), the Puerto Rico Convention Center District Authority (“CCDA”), and the Puerto Rico Highways and Transportation Authority (“HTA”).

JOINT STATUS REPORT

1. This Joint Status Report is submitted pursuant to the Court’s May 11, 2021 Order, which ordered the Parties to “submit a joint status report by May 25, 2021.” (ECF No. 16725.) Pursuant to the deadlines set forth in the Court’s *Order Modifying Discovery Schedule* (ECF No. 16365), the deadline for the completion of fact discovery was May 19, 2021. The Parties jointly requested to extend this deadline as set forth in the *Urgent Joint Motion to (I) Modify Protective*

² “Government Entities” refers to the Commonwealth’s agencies and instrumentalities on which Defendants served subpoenas in these Adversary Proceedings, including the Puerto Rico Fiscal Agency and Financial Advisory Authority (“AAFAF”), the Puerto Rico Government Development Bank, the Puerto Rico Department of Treasury, HTA, PRIFA, CCDA, and the Puerto Rico Tourism Company. The Commonwealth, by and through the Board, as its Title III representative, in these cases is the “Plaintiff.” Unless otherwise indicated, all ECF numbers referenced herein refer to the docket in Case No. 17 BK 3283-LTS.

Order Motion Briefing Schedule; (II) Continue Discovery Completion Date; and (III) Extend Deadline to Submit Post-Discovery Supplemental Briefing Schedule (ECF No. 16792) (the “Urgent Motion”). (*Id.* at ¶ 11.) On May 25, 2021, the Court entered an Order granting the Urgent Motion (ECF No. 16799).

I. THE PARTIES’ PROGRESS SINCE THE MAY 10 JOINT STATUS REPORT

2. Since the May 10 Joint Status Report,³ the Parties have continued to exchange correspondence and met-and-conferred telephonically on May 19, 2021 (the “May 19 Meet-and-Confer”).

A. Depositions

3. Defendants commenced the deposition of one of the Government Entities’ Rule 30(b)(6) representatives, Timothy Ahlberg, on May 20, 2021. Because of the breadth of topics, the Parties have agreed to continue Mr. Ahlberg’s testimony for an additional 2.5 hours limited to PRIFA topics on May 26, 2021.

4. Defendants deposed (and the Government Parties cross-examined) Juan Jose Diaz, a representative of HTA’s auditor BDO Puerto Rico, P.S.C., on May 21, 2021.

5. Defendants deposed the Government Entities’ other Rule 30(b)(6) witness, Omar Rodriguez, on May 24 and May 25, 2021.

6. Additional Rule 30(b)(6) depositions have been scheduled on the following dates: KPMG LLP on May 27, 2021; RSM Puerto Rico on May 28, 2021; and Ernst & Young LLP on June 8, 2021.

³ “May 10 Joint Status Report” refers to *Joint Status Report Regarding Discovery in the Revenue Bond Adversary Proceedings* (ECF No. 16631).

7. The Parties intend to meet-and-confer later this week regarding the need for additional depositions of fact witnesses. No agreement has been reached yet on this issue.

B. Outstanding Document Discovery Issues

8. The Parties continue to meet and confer regarding production of extracts from the PRIFAS system, search parameters used to locate documents, the completeness of the productions received, and targeted follow-up requests based on deposition testimony. The Government Parties continue to maintain that their document production is complete.

9. With respect to third-party document productions, the productions from banks are completed. Productions from accounting firms are completed, subject to certain follow-up requests. Bacardi Corp. and Bacardi International Limited completed its production on May 24, 2021, and productions from three additional rum producers, Club Caribe Distillers LLC, Destilería Serrallés, Inc., and Edmundo B. Fernandez, Inc., are expected to be completed soon.

10. The Government Parties have contacted law firms to advise them of the Court's May 19, 2021 ruling in the *Memorandum of Decision and Order on Motions Relating to Discovery in the Revenue Bond Adversary Proceedings* (ECF No. 16778), and discussions with law firms about the status of their respective productions and certain withheld documents remain ongoing.

II. PROPOSED NEXT STEPS

11. The Parties will continue to meet-and-confer over any outstanding discovery issues and propose to file a joint status report advising the Court of the status of the Parties' discussions on June 10, 2021.

Dated: May 25, 2021
San Juan, Puerto Rico

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CERTIFICATE OF SERVICE

I hereby certify that on this same date a true and exact copy of this notice was filed with the Clerk of Court using the CM/ECF system, which will notify a copy to counsel of record.

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